

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

MARVIN C. HAYES

PETITIONER

VS.

CIVIL ACTION NO. 3:16cv121 DPJ-FKB

LAUDERDALE COUNTY CIRCUIT
COURT AND BILLIE SOLLIE

RESPONDENTS

ORDER

This cause came on this date to be heard upon the Report and Recommendation [15] of the United States Magistrate Judge, after referral of hearing by this Court. Magistrate Judge F. Keith Ball recommended dismissal of Hayes's petition as moot because he is no longer being housed at the Lauderdale County Detention Facility. Judge Ball also noted that the petition would otherwise be subject to dismissal for failure to exhaust his state remedies as required by 28 U.S.C. § 2254(b)(1).

Moreover, on December 1, 2016, the Report and Recommendation mailed to Petitioner was returned as undeliverable. The Court has repeatedly advised Petitioner that failure to advise the Court of a change in address may result in dismissal without further notice. *See* Orders [6, 9, 11]. And finally, Petitioner failed to respond to Respondents' motion to dismiss for failure to state a claim [13], filed August 3, 2016.

The Court, having fully reviewed the Report and Recommendation of the United States Magistrate Judge entered in this cause, and being duly advised in the premises, finds that said Report and Recommendation should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED that the Report and Recommendation of United States Magistrate Judge Ball be, and the same is hereby, adopted as the finding of this Court, and the same entire action should be dismissed.

A separate judgment will be entered herein in accordance with the Order as required by Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED AND ADJUDGED this the 2nd day of December, 2016.

s/ Daniel P. Jordan III
UNITED STATES DISTRICT JUDGE